

Response to Office Action  
Dated January 8, 2001

Appln. No. 09/490,268

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August 13, 2004

**REMARKS**

This is in response to the final Office Action dated January 8, 2001. Reconsideration is respectfully requested.

Application Status

The application is considered abandoned as of July 10, 2001 by the U.S. Patent and Trademark Office. The applicant respectfully contends that the application was abandoned unintentionally and requests that it be revived pursuant to 37 CFR 1.137(b). In compliance with this rule, applicant submits with this response a Petition for Revival, the petition fee of \$665 pursuant to 37 CFR 1.17(m) and a Request for Continued Examination under 37 CFR 1.114 and the associated fee of \$385 pursuant to 37 CFR 1.17(e).

Status of the Claims

Claims 1-25 are pending and all are rejected. Claims 1-3 and 8-14 are rejected as anticipated by U.S. Patent No. 2,898,640 to Dail. Claims 4-7, 15, 16, and 22-25 are rejected as obvious over Dail. Claims 17-21 are rejected under 35 USC 112 as being indefinite but would otherwise be allowable over the cited prior art of record.

New Claims

Claims 1-25 have been canceled and new Claims 26-61 added. The new Claims are substantially based upon Claims 1-25 but are rewritten to overcome rejections on the basis of Dail, the indefiniteness rejections and to preserve the subject matter considered allowable over U.S. Patent No. 3,200,553 to Frashour et al, cited in a prior Office Action.

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Allowable Subject Matter

Claims 17-21, drawn to the embodiment shown in Figures 11 and 12, are considered allowable but for indefiniteness rejections. New independent Claims 40 and 50 are based upon Claims 17-21 and have been written so as to eliminate any ambiguity or indefiniteness perceived by the Examiner and still maintain the recitations which make them allowable over Frashour et al. Specifically, the relationships between the flanges are recited which provide an elongated space or gap between the panels, and the angular orientation of various edges, which appears to have been the point of indefiniteness in Claims 17-21, are clearly described with reference to the front and rear sides of the panels. Applicant believes that this overcomes the indefiniteness rejection and requests that these claims be allowed. Claims 41-49, dependent upon Claim 40, and Claims 51-59, dependent upon Claim 50, should be allowed for the same reasons that independent Claims 40 and 50 are allowable.

Arguments Against Rejections for Anticipation and Obviousness

Applicant contends that new independent Claims 26 and 33 are neither anticipated nor obvious in view of Dail. Dail does not disclose a panel having a tongue with flanges on either side that fits within a groove in another panel, the groove being defined by two legs of unequal length separated by a base portion, wherein only one flange adjacent to the tongue engages only one leg defining the groove, the tongue itself being in spaced apart relation from the base of the groove, and the other flange adjacent to the tongue being in spaced apart relation to the other leg defining the groove. Figure 3 of Dail clearly shows flanges on both sides of the tongue 26 engaging both legs defining the groove 24. Dail also shows a reinforcing strip 30 providing a load path between the tongue 26 and the base of the groove 24.

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Applicant's configuration, shown in Figure 3, wherein only one flange engages only one leg as recited in Claims 26 and 33, provides a distinct advantage over panel configurations as shown in Figure 3 of Dail. This is especially true for panels positioned one above another, wherein part of the weight of the upper panels is transferred to the lower panels. Because only the rear flange 36 of one panel engages only the rear leg 28 of an adjacent panel, all of the load from the adjacent panel is transferred from the flange 36 to the leg 28. This keeps the load path close to any fasteners such as 34, resulting in shear force on the fastener but no significant bending loads being induced. This results in a much stronger attachment between the panels and their support structure 54. Because, in applicant's invention, there is a gap 44 between the tongue and the base 32, and a gap 14 between the front flange and the front leg 30, no load is transferred between the tongue and the base or the front flange and the front leg.

The same cannot be said for the configuration shown in Figure 3 of Dail. Loads from one panel are transferred to the other panel across the entire thickness of the panels because both flanges engage both legs and the tongue 26 engages the base of the groove 24 through strip 30. The load vector that one panel exerts on another is thus further away from any fasteners holding the panels to a structure and results in increased bending moment being induced into the fasteners as well as shear loads. Consequently, panel structures such as those depicted in Dail will tend to fail under lower loads than those made according to applicant's invention unless fastening systems of greater strength or using more fasteners are employed.

One of ordinary skill in the art would not be motivated to modify Dail to the configuration of applicant's invention

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because Dail is concerned with light-weight panels used in a horizontal orientation as for a ceiling structure. Thus, there is no teaching or suggestion that shear and bending loads are of any concern in contrast to the case if the panels are stacked vertically one above another as in applicant's invention. Furthermore, Dail's use of the reinforcing strip 30 providing a load path between the tongue 26 and the base of the groove 24 teaches away from applicant's invention wherein no vertical load path between the tongue and groove base is provided. Where there is a teaching away, there can be no motivation to modify a reference against the teaching.

Claims 27-32 depend upon Claim 26, and Claims 34-39 depend upon Claim 33. These dependent claims should be allowable for the same reasons that Claims 26 and 33 are allowable over Dail.

Summary

Applicant has shown that the new claims are allowable over the cited prior art and do not suffer from any problems as to indefiniteness. Applicant contends that the claims are allowable, the application is in condition for allowance and respectfully requests that it be passed to issue.

Respectfully submitted,

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